



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/858,384	05/16/2001	Timothy D. Allen	47767-2	3415

  

24115	7590	09/21/2007
BUCKINGHAM, DOOLITTLE & BURROUGHS, LLP		
3800 EMBASSY PARKWAY		
SUITE 300		
AKRON, OH 44333-8332		

  

EXAMINER	
NEWTON, JARED W	

  

ART UNIT	PAPER NUMBER
3692	

  

NOTIFICATION DATE	DELIVERY MODE
09/21/2007	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

RLEAR@BDBLAW.COM  
LWAGNER@BDBLAW.COM  
IPDOCKETAKRON@BDBLAW.COM

**Office Action Summary**

Application No.

09/858,384

Applicant(s)

ALLEN ET AL.

Examiner

Jared W. Newton

Art Unit

3692

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 June 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

This action is in response to the Amendment filed June 15, 2007, by which:

- Claims 1, 7-9, 14, 15, 20 and 21 were amended;
- Claims 1-26 are pending.

At the outset, it is noted that the undersigned Examiner, Jared Newton, has taken over prosecution of the Instant Application. All future correspondences will be mailed from and should be directed to Examiner Newton.

Upon review of the Application file and the prior art, the Examiner has determined that the claims as presently amended are not patentable over the prior art. The previous indication of allowable subject matter noted in the Office Action mailed June 7, 2007 is hereby withdrawn, and this action is Non-final to allow the Applicant a full opportunity to address any new rejections.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-20 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter that was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

In regard to claims 1, 8 and 15, the limitation, "linking ... regardless of the type of mortgage instrument ..." (lines 8-10) was not supported by the originally filed disclosure. Nor would one of ordinary skill in the art at the time of the invention be able to ascertain how a "linking" between a borrower and a servicing institution would be conditional on the type product the borrower holds. For purposes of examination, the limitation has been interpreted to recite, "linking said borrower with said borrower's existing mortgage servicing institution."

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 2, 5-7, 21, 22, 25 and 26 are rejected under 35 U.S.C. 102(e) as being anticipate by US Patent Application Publication No. 2001/0056397 to Kelly et al. (hereafter Kelly).

**In regard to claim 1**, Kelly discloses a system and method for tracking and modifying a mortgage rate, wherein said method includes the steps of:

(a) capturing customer indicia information input by a borrower (see [0027], [0032] – Kelly recites, “Using a Web browser or an e-mail program, [a user] requests a modification online”);

(b) identification of the borrower’s existing mortgage servicing institution through information input by said borrower and

(c) linking said borrower with said borrower’s existing mortgage servicing institution” (see id. – when a “user” of the “A.R.C. Loan service” as disclosed by Kelly submits information via a web browser, he is linked with the A.R.C. service to “request a modification online”); and,

(d) notification of the borrower’s existing mortgage servicing institution (see id. – the user’s “request for modification” notifies the A.R.C. service so that the service can determine if a modification is proper).

**In regard to claim 2**, Kelly further discloses securing permission of said borrower prior to notification of said borrower’s mortgage servicing institution (see [0032]; inherent in customer initiated; system initiated requests permission).

**In regard to claim 5**, Kelly further discloses displaying the customer retention program (see FIG. 7).

**In regard to claim 6**, the A.R.C. service disclosed by Kelly includes a mortgage modification option (see Title).

**In regard to claim 7**, Kelly further discloses changing terms on said borrower’s original mortgage, where said mortgage may be any product offered by said existing mortgage servicing institution (see [0021]).

**In regard to claim 21**, the limitations are deemed anticipated by the Kelly reference as set forth in the rejection of claims 1 and 7.

**In regard to claim 22**, the limitations are deemed anticipated by the Kelly reference as set forth in the rejection of claim 2.

**In regard to claim 25**, the limitations are deemed anticipated by the Kelly reference as set forth in the rejection of claim 5.

**In regard to claim 26**, the limitations are deemed anticipated by the Kelly reference as set forth in the rejection of claim 6.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 3, 4, 8-20, 23 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kelly as applied to claims 1, 2, 5-7, 21, 22, 25 and 26 above, in view of Applicant's Disclosure.

**In regard to claims 3, 4, 8, 10, 15, 17, 23 and 24**, Kelly discloses the system and method set forth above, including the steps of: capturing indicia input by a borrower; linking said borrower with his mortgage servicing institution; and notifying the institution.

Kelly does not explicitly set forth the steps of: identification of said borrower's mortgage servicing institution by a borrower's credit report and electronically parsing borrower's credit report to identify at least one of said borrower's mortgage servicing institutions. However, it was well known in the art at the time of the invention to obtain the identity of a borrower's mortgage servicing institution by means of a credit reports, as set forth in Applicant's disclosure (see US Patent Application Publication No. 2001/0044772, [0019] – [0022]). It was also well known at the time of the invention to electronically parse documents for specific information. Therefore it would have been obvious to one of ordinary skill in the art at the time of invention to modify the system of Kelly to include these well-known features so that an alternative determination of the mortgage service institution can be made if it is not initially known. For instance, if the system of Kelly wanted to identify if a person is a user of the A.R.C. service, and possibly eligible for mortgage modification, it would have been obvious to obtain the user information from a credit report.

**In regard to claims 9, 11-14, 16 and 18-20**, Kelly discloses the limitations as set forth in the rejection of claims 1, 2, 5-7, 21, 22, 25 and 26 as set forth above.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jared W. Newton whose telephone number is (571) 272-2952. The examiner can normally be reached on M-F 8-5.

Art Unit: 3692

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kambiz Abdi can be reached on (571) 272-6702. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



JWN  
September 6, 2007



Kambiz Abdi  
Supervisor – AU 3692